

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
Northern District of California

CIVIL MINUTES

Date: October 3, 2018

Time: 9:44 – 10:50 =
1 Hour; 6 Minutes

Judge: EDWARD M. CHEN

Case No.: 17-md-02777-EMC

Case Name: In re Chrysler-Dodge-Jeep EcoDiesel
Marketing

Settlement Master: Kenneth Feinberg

Attorneys for Plaintiff: Elizabeth Cabraser, David Stellings, Lesley Weaver, Archie Grubb, II, Stacy Slaughter, Rachel Jensen, Lynn Sarko, Gayle Blatt

Attorneys for USA: Leigh Rende, Joseph Warren, Leslie Allen, Nigel Cooney.

Attorney for CA. EPA: Kathryn Caballero.

Attorneys for CA. Attorney General: Judith Fiorentini, Jon Worm

Attorneys for Defendants: Robert Giuffra, Jr., Thomas While, Matthew Slater

Also Present: Christopher Pardi, Mark Chernoby

Deputy Clerk: Angella Meuleman

Court Reporter: JoAnn Bryce

PROCEEDINGS

Further Case Management Conference held.

SUMMARY

Parties stated appearances.

Settlement Master Update: He is pleased to report to the Court that negotiations and settlement discussions have progressed and are ongoing between USA and FCA. The designated date for the completion of all testing and drafting of settlement documents pertaining to non-monetary relief is November 7, 2018; that part of the settlement is subject to approval from principals, who have been updated on progress. On a parallel track, the settlement documents involving FCA and PSC regarding non-monetary terms are nearing completion and currently on track for completion by 11/7/2018. Remaining are monetary settlement discussions between USA, FCA, and PSC.

Similarly, Bosch is also part of those monetary discussions but too early to say if will be resolved by 11/7.

FCA reports they are confident all testing should be completed well in advance of 11/7/2018. They expect to have Government approval of the proposed fix. FCA noted it would be extremely helpful if they could share with the state AGs information on consumers facing aspects of the proposed settlement with the USA. USA does object but will discuss with FCA. Court underscored importance of getting information to State AGs as soon as possible. PSC has no objection to sharing documents with State AGs. Parties anticipate 42 depositions thus far (30 domestic – 12 completed, 2 withdrawn; 12 or 13 Italian witnesses – those employees are invoking their right under Italian law; these may proceed under Hague Convention (to take 3 or 4 months)). FCA will have a much better handle and will know a lot more at class certification motion on Nov 20. Believes fact discovery would not be completed until May or June 2019.

Government: Still in process of negotiating. Have been evaluating test results and CARB is in the process of evaluating the testing. Agencies will be in a position to say whether or not fix is viable by 11/7. Government does not agree with FCA's assertion that mileage will not be effected by the fix.

PSC: Re: access to testing reports and form of USA/FCA Settlement Agreement: PSC will be discussing both of those matters after this conference with USA and FCA and are hopeful can work out a process as early as possible. Consumer aspects are important to the relief they seek and obtain for consumers, and there is a need to make sure the settlement agreements are consistent. Will work through Settlement Master if encountering any obstacles to access. Court may intervene if necessary. End of 2018 is realistic date for end of fact discovery. Concurs with the Spring projection of expert discovery deadline.

The Court: The Court noted there is no objection from any party re: prompt sharing of testing results with PSC. If a problem arises, the parties are to convey those to the Settlement Master. Setting trial date today is deferred and Court will endeavor to set one at class certification hearing on November 20, 2018. Fact based discovery will be completed (exception of Italian witnesses subject to Hague Convention) by the end of this year, and expert discovery to be completed 3 or 4 months thereafter. Goal is to hold trial before the end of the summer.

While Court is pleased with the progress in settlement discussions, the Court will not slow down pretrial proceedings. Court reserves judgment on whether an evidentiary hearing shall be held on the motion for class certification.

Housekeeping matter: Objections Defendants filed to Motions to Strike Dr. Shankar's declaration to be filed by October 17, 2018; Plaintiffs' response due October 24, 2018.

CA Attorney General: Brief Clarification – CA Air Resources Board and CA Attorney General's Office has been participating in the settlement process as well and agree with the November 7 deadline draft and testing as well.